



City of Green Bay
Department of Community and Economic Development

TERM SHEET 17-05
BROADWAY LOFTS (RAILYARD)

This Term Sheet is made this _____ day of _____, 2017,
by THE CITY OF GREEN BAY, a Wisconsin municipal corporation ("City"),
THE REDEVELOPMENT AUTHORITY OF THE CITY OF GREEN BAY ("RDA"),
and TWG DEVELOPMENT, LLC, an Indiana limited liability company ("Developer").

RECITALS

- A. Developer has proposed to acquire and develop a portion of certain real property, identified for real estate tax purposes and address as:

<u>Tax Parcel</u>	<u>Address</u>	<u>Acres</u>
5-1756	420 N BROADWAY	14.553

- B. The Developer intends to acquire approximately four (4) acres of the northernmost portion of this parcel, which shall be referred to as the "Property." A legal description of the Property is herein attached as EXHIBIT A.
- C. Developer intends to complete a Project, which includes the construction of a new four (4)-story residential structure (Building "A") with ninety-three (93) rental units, construction of two (2) two (2)-story residential townhome structures (Buildings "B" and "C") with seven (7) rental units each, and construction of garage and surface parking. The Developer proposes that eighty-five percent (85%) of the units will be "affordable" rents, while the other fifteen percent (15%) will be "market" rents. The Proposed Project improvements are shown on a Preliminary Concept Plan, which is herein attached as EXHIBIT B.
- D. As of January 1, 2017, the Property has an aggregate assessed value of \$0.00, which based on the assessed tax rates in effect as of January 1, 2017, the Property yields approximately:
1. \$0.00 in total real estate taxes annually (assessed mill rate of \$22.49);
 2. \$0.00 in real estate taxes to the local taxing jurisdictions (total real estate taxes less real estate taxes to the State of Wisconsin) annually (assessed mill rate of \$22.32); and
 3. \$0.00 in real estate taxes to the City of Green Bay annually (assessed mill rate of \$8.85).
- E. Upon completion of Proposed Project, the City estimates the aggregate assessed property value of the Property to be \$5,500,000.00, which is anticipated to yield approximately:
1. \$123.695.00 in total real estate taxes annually (assessed mill rate of \$22.49);

2. \$122,760.00 in real estate taxes to the local taxing jurisdictions (total real estate taxes less real estate taxes to the State of Wisconsin) annually (assessed mill rate of \$22.32); and
 3. \$48,675.00 in real estate taxes to the City of Green Bay annually (assessed mill rate of \$8.85).
- F. Pursuant to the provisions of §66.1105, Wis. Stats. (the “Tax Increment Law”), the City has included the Property within Tax Increment District No. Fourteen (14) (the “TID”), which will provide part of the financing for certain costs of the Project.
- G. Developer has requested Tax Incremental Finance (“TIF”) assistance from the City and RDA with regard to certain expenses, including, but not limited to environmental remediation; demolition, remodeling, repair or reconstruction of existing buildings; clearing of land; construction of new buildings; or the construction of public works infrastructure, which will constitute qualified expenditures for which TIF assistance may be afforded Developer.
- H. The City and RDA desire to have Developer perform the Project in order to generate economic activity and tax base for the community consistent with the City Comprehensive Plan.
- I. In order to induce Developer to undertake the Project, such that Developer remediates environmental hazards, enhances the physical landscape, removes blight, expands the range of residential products, adds residents, and encourages additional investment and development, and the public will generally benefit; the parties shall work in good faith to negotiate and execute definitive agreements, including a Development Agreement, by December 1, 2018. The Development Agreement will contain terms consistent with this Term Sheet to the extent such terms are not modified through future reviews and approvals, as well as other terms, representations and warranties typical of comprehensive development agreements. If the parties have not executed and delivered a Development Agreement by December 1, 2018, any party may terminate negotiations without liability to any other party.

I. TAX INCREMENT FINANCING

- A. Qualification for TIF. Developer shall demonstrate to the satisfaction of City and RDA a need for TIF, with such determination to be made according to the “but for” test, that is, that but for the City and RDA providing TIF, the Project would not happen. At the request of the City or RDA, Developer shall provide an independent analysis from a consultant expert in TIF to justify to the satisfaction of the City and RDA the Developer’s qualification and need for TIF, both in terms of Qualified Expenditures and the amount of money to be paid to Developer.
- B. Nature of TIF Incentive. The TIF Incentive available to Developer under this Agreement shall be composed of two parts:
1. Existing Agreement. City shall provide TIF Incentive to DDL Holdings, LLC in accordance with the terms for Future Project(s) within Development Agreement 17-02 (Railyard: North); and
 2. PayGo Reimbursement. The City shall provide an additional TIF Incentive as a pay-as-you-go (PayGo) obligation of the City, which is further defined as follows:
 - a) Developer shall be responsible to incur and pay all of the upfront costs of the Project and, to the extent TID revenues are sufficient to the limits of the TID and this Agreement, Qualified Expenditures shall be reimbursed to Developer.
 - b) Commencing the first year after the first occupancy permit for the Project has been issued, the assessed value of the Property shall be determined on January 1 of each tax year and shall be compared to the assessed value of the Property as of January 1 of the

year in which construction commenced. The difference in assessed values shall be known as the Incremental Property Value.

- c) Incremental Property Value multiplied by the assessed mill rate, less payments of real estate taxes to the State of Wisconsin, shall be known as the TIF Increment.
- d) The City shall first use the TIF Increment to cover its annual debt service obligation for the Project Grant. Should the annual debt service payment not consume all of the TIF Increment, the City shall make available not more than fifty percent (50%) of the remaining TIF Increment to the Developer.
- e) PayGo Reimbursement payments will be payable to Developer in the year following the year of the TIF Increment determination, after Developer has provided proof to the City of the full payment of the real estate taxes, special assessments and special charges against the Real Estate for the previous year. For example, if the first occupancy permit is issued on September 1, 2019, the TIF Increment would be determined as of January 1, 2020 and the PayGo reimbursement would first be payable in 2021.

C. Limitations. The TIF Incentive available to Developer for the Project is limited as follows:

- 1. Monetary Limitation. The TIF Incentive in any year shall not exceed fifty percent (50%) of the Available Tax Increment for the Property.
- 2. Tax Incentive Cap. The City shall not be obligated to pay TIF Incentive in excess of the lesser of one million dollars (\$1,000,000.00) or the total amount of Qualified Expenses incurred and paid by Developer.
- 3. Tax Receipts Limitation. Only the Available Tax Increment actually received by the City, and no other property, revenue, or asset of the City, shall be used to pay such amounts.
- 4. Temporal Limitation. Provided Developer qualifies for TIF Incentive and provides adequate proof to the City and RDA that Developer has incurred and paid Qualified Expenditures, TIF Incentive payments shall be made within thirty (30) days after Developer has paid the real estate taxes and any Special Assessments and Special Charges in full for the previous tax year, provided, however, in no event shall TIF Incentive payments continue after the earlier of termination date of the TID or the termination of this Agreement if before the termination of the TID.

D. No General Obligation of City. The City's obligation to make TIF Incentive payments shall be a special and limited obligation only and shall not be considered a general obligation of the City, and neither the full faith and credit nor the taxing powers of the City are pledged to the payment of such amounts. The City shall take no action to dissolve the TID before payment of all TIF Incentive payments due to the Developer, subject to the provisions of this Agreement. In no circumstances shall amounts to be paid Developer hereunder be considered an indebtedness of the City, and the obligation of the City hereunder is limited to the Available Tax Increment appropriated and received by the City. Amounts due hereunder shall not count against the City's constitutional debt limitation, and no taxes will be levied for its payment or pledged to its payment other than from the Available Tax Increment.

II. OBLIGATIONS OF DEVELOPER

Prior to the execution of a Development Agreement, Developer shall demonstrate to the satisfaction of the City and RDA the following items within this section.

A. Site Control. Developer shall submit proof of control over all real estate comprising the Property. Developer will have agreed with all holders of easements and any other rights that may be affected by the

Project to the termination, modification or relocation of easements and such other rights to accommodate the Preliminary Concept Plan.

- B. Preliminary Concept Plan. Developer shall submit a concept plan showing proposed Project improvements. Developer shall grant to the City such easements as are reasonably necessary for public improvements, infrastructure, ingress or egress, utilities, lighting or landscaping or any other access necessary. All site and building plans are subject to review and approval by the City for compliance with federal, state and municipal code requirements.
- C. Preliminary Construction Documents. Developer shall submit all construction contracts, architectural drawings and plans and specifications for the improvements to be made. All site and building plans are subject to review and approval by the City for compliance with federal, state and municipal code requirements.
- D. Preliminary Timeline. Developer shall submit a timeline that shall identify specific dates for the following Project milestones:
 - 1. Property Acquisition. The date by which Developer will have acquired all real estate, rights-of way, and easements comprising the Property; after which Developer shall promptly cause a certified survey map to be prepared, approved by the City, RDA and any other party whose consent is required, and shall cause the certified survey map to be recorded with the Brown County Register of Deeds. Property and rights-of-way shall be owned in the name of the Developer.
 - 2. Construction. The date by which Developer shall have commenced construction of the Project after which the Project shall proceed expeditiously thereafter.
 - 3. Occupancy. The date by which Developer shall have completed major construction on the Property and all permits have been obtained to allow for normal occupancy.
- E. Preliminary Development Budget. Developer shall submit a budget that shall include not less than twelve million dollars (\$12,000,000) in "hard" construction costs and shall also include at least a ten percent (10%) cost overrun/change order line item. The Budget shall clearly identify qualified expenditures for which TIF assistance may be afforded Developer.
- F. Proof of Equity. Developer shall submit proof of equity in the form of the value of the Property, less any mortgages thereon, plus funds on hand and not less than twenty percent (20%) cash equity available for injection into the Project in an amount sufficient to cover all Project costs, which shall not be provided to any third party sources. Any available Developer funds obtained from sources other than lenders or the City shall be expended on the Project before any lender or City funds are expended or any third party financing is used to pay Project costs.
- G. Proof of Financing. Developer shall submit proof of financing, which after injection of the Developer equity into the Project, will be sufficient in the determination of the City and RDA, to complete the Project according to the plans and specifications.
- H. Proof of Insurance. Developer shall submit proof that Developer has obtained and will maintain worker compensation insurance, comprehensive general liability insurance, comprehensive automobile liability and property damage, umbrella coverage and builder's risk insurance in amounts and written by companies acceptable to the City and RDA, which shall each name the City and RDA as additional insureds and shall not be canceled without at least thirty (30)-day notice to the RDA and City.
- I. Existence. Developer shall submit proof that Developer is a limited liability company organized and existing in good standing under the laws of the State of Wisconsin and has the power and all necessary licenses, permits and franchises to own its assets and properties and to carry on its business.

- J. No Litigation. Developer shall submit proof that there is no litigation or proceeding pending or threatened against or affecting Developer or the Property that would adversely affect the Project, Developer, or the ability of Developer to complete the Project.
- K. No Default. Developer shall submit proof that Developer is not in default (beyond any applicable period of grace) of any of its obligations under any other material agreement or instrument to which Developer is a party or an obligor.

III. MISCELLANEOUS TERMS

- A. Time. TIME IS OF THE ESSENCE with regard to all dates and time periods set forth herein.
- B. Documents. Developer shall submit all documents to the City or RDA via one electronic copy and three printed copies.
- C. Compliance with Laws and Codes. The Project, when completed, will conform and comply in all respects with all applicable laws, rules, regulations and ordinances, including without limitation, all building codes and ordinances of the City. Developer will comply with, and will cause the Project to be in compliance with all applicable federal, state, local and other laws, rules, regulations and ordinances, including without limitation, all environmental laws, rules, regulations and ordinances. Developer will obtain from the City and all other appropriate governmental bodies (and all other councils, boards, and parties having a right to control, permit, approve, or consent to the development and use of the Property) all approvals and consents necessary to develop and use the Property as set forth above.
- D. Maintenance and Repair. Developer shall at all times keep and maintain, or cause to be kept and maintained, the Property in good condition and repair, in a safe, clean, and attractive condition, and free of all trash, litter, refuse, and waste, subject only to demolition and construction activities contemplated by this Agreement.
- E. Reports and Information. During the period before the commencement of construction, Developer shall from time to time provide to the RDA information having a bearing upon the Property, the Project, material developments in marketing, sale and leasing relating to the Project, and any other material matters pertaining to the interests of the City and the RDA in the Property or under this Agreement. Developer shall file with the RDA quarterly progress reports during the course of construction. Developer shall provide RDA with a copy of annual, audited financial statements for Developer through termination of this Agreement.
- F. Relationship of Parties. The City and the RDA are not partners or joint venturers with Developer in the Project or otherwise. Under no circumstances shall the City or RDA be liable for any of the obligations of Developer under this Agreement or otherwise. There are no third party beneficiaries of this Agreement.

CAVEAT

This Term Sheet does not constitute an offer or a legally-binding obligation of any party hereto, or any other party in interest, nor does it constitute an offer of securities

[Signature pages follow]

IN WITNESS WHEREOF, the parties to this Agreement have caused this instrument to be signed by duly authorized representatives of Developer, City and RDA as of the day and year first written above.

THE CITY OF GREEN BAY

By: _____
James J. Schmitt, Mayor

By: _____
Kris A. Teske, Clerk

**REDEVELOPMENT AUTHORITY OF THE
CITY OF GREEN BAY**

By: _____
Harry Maier, Chair

Attest: _____
Kevin J. Vonck, Executive Director

The undersigned Developer hereby agrees to the terms set forth in the foregoing Term Sheet and acknowledge the Term Sheet creates no contract or other binding commitment on the part of the RDA or the City.

**DEVELOPER:
TWG DEVELOPMENT, LLC**

By: _____

Joe Whitsett, President

ACKNOWLEDGMENT

STATE OF _____)
) SS
COUNTY OF _____)

Personally came before me this _____ day of _____, 2017, the above named _____, a member of TWG DEVELOPMENT, LLC, a Indiana limited liability company, to me known to be the person who executed the foregoing instrument and acknowledged the same.

*

Notary Public, _____ County, Wisconsin
My Commission Expires _____

EXHIBIT A
Legal Description

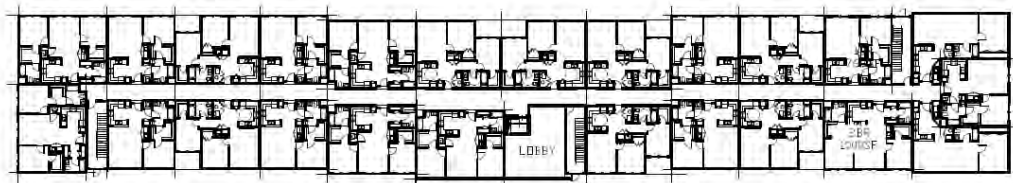
Larsen Green Lot 17

EXHIBIT B
Conceptual Site Plan

Site Layout



Building “A”

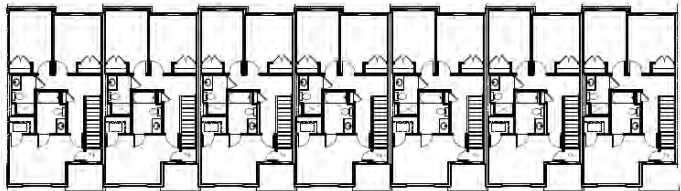


BLDG A - FLOORS 2, 3, 4



BLDG A - GROUND FLOOR

Buildings “B” and “C”



BLDG B - SECOND FLOOR

